Item No. 1005-D X 96-2:S.Rp. 1023

Calendar No. 1155

96TH CONGRESS, 2d Session } SENATE { REPORT No. 96-1023

AMENDING SECTION 21 OF THE ACT OF FEBRUARY 25, 1920, COMMONLY KNOWN AS THE MINERAL LEASING ACT

NOVEMBER 19 (legislative day, JUNE 12), 1980.—Ordered to be printed

Mr. JACKSON, from the Committee on Energy and Natural Resources, submitted the following

COMPLETED ORIGINAL

REPORT

[To accompany H.R. 7941]

The Committee on Energy and Natural Resources to which was referred the act (H.R. 7941), to amend section 21 of the Act of February 25, 1920, commonly known as the Mineral Leasing Act, having considered the same, reports favorably thereon without amendment and recommends that the act do pass.

PURPOSE

The purpose of H.R. 7941 is to amend the Mineral Leasing Act of 1920 by authorizing the Secretary of the Interior to lease to anyone holding an oil shale lease additional lands outside the existing lease for the purpose of disposing of oil shale waste, construction of plants, facilities, or for any other purpose necessary for the production of oil shale other than mining of shale.

BACKGROUND AND NEED

Lands in Colorado, Utah, and Wyoming contain over 1.8 trillion barrels of oil shale, of which 600 million barrels is recoverable with known technology. In 1974, the Department of the Interior issued four leases under the Federal Prototype Oil Shale Leasing Program. This program was designed to test the environmental and socio-economic feasibility of oil shale development by various methods of mining and processing, i.e., open pit mining, underground room-and-pillar, or in situ. However, development under the program has been minimal, providing supervisory experience and limited technical and environmental information.

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One of the major impediments has been the lack of Secretarial authority to allow surface use of additional lands not located within the oil shale lease. In some of the richest shale areas, the most efficient mining operations cannot be accomplished if the processing plant and spent shale disposal are located on the lease site. The additional area authorized by this proposal would be used for disposal of oil shale waste, disposal of overburden removed from the leased lands, for construction of plants, processing facilities, storage facilities, or other surface uses for development of oil shale. The mining of oil shale would not be authorized.

The Rio Blanco Oil Shale Company representative testified during hearing that the 5,120-acre C-a Federal lease tract in the Piceance Basin, Colorado, as an open pit surface mine operation would yield 5 billion barrels of shale oil; a modified in situ method would yield 2 billion barrels of shale oil; and an underground room and pillar operation would yield 1 billion barrels. Thus, the most efficient type of operation developed to date—open pit surface mining—is dependent on an off-lease siting for processing plants and spent shale. When the lease was issued in 1974, the open pit mining and surface retorting method was contemplated. The Detailed Development Plan and Environmental Impact Statement on the Prototype Program contained references to off-lease siting needs for maximum resource recovery. Subsequent to the lease issuance, the Solicitor determined that the 5,120-acre oil shale lease limitation prohibited the Secretary from authorizing the use of any additional lands. This opinion was subsequently reinforced by section 701(d) of the Federal Land Policy and Management Act of October 21, 1976 (P.L. 94–579). Under the terms of H.R. 7941, that opinion and the provision of law would now be superseded in accordance with the procedures outlined in this bill when enacted into law.

H.R. 7941 would authorize the Secretary to issue additional leases, for purposes other than mining, to the holders of oil shale leases issued prior to 1985. Before issuing such additional leases, the Secretary would consider the environmental and other resource values and would make a determination that the leases would serve the public interest. An annual rental, subject to readjustment, to reflect the fair market value for the use of the lands would be paid by the lessees. Such leases would also be subject to leasing under other provisions of this Act where such would be compatible with the purposes for which a lease is to be issued under this subsection.

The Administration submitted to Congress an omnibus proposal to provide legislative initiatives for increasing oil shale development. This proposal, introduced by Senator Jackson (by Request) as S. 3050, would have (1) granted the Secretary authority to issue oil shale leases for more that 5,120 acres when a larger area is deemed necessary for commercial development; (2) clarified the Department's right to issue multimineral leases, i.e., for dawsonite, nahcolite, and halite intermingled with oil shale; and (3) granted authority to issue two leases per state per person or four leases nationwide, rather than the present one lease per person, as well as authority to issue one additional lease when the present lease is within 10 years of depletion.

H.R. 7941 would authorize the Secretary of the Interior to issue additional leases under section 21 of the Mineral Leasing Act of 1920, for purposes other than mining, to the holders of oil shale leases issued prior to 1985. The Secretary is authorized to issue such additional leases after consideration of the environmental and other resource values and other possible uses of the lands to be covered by the leases and upon a determination that the public interest would be served thereby.

With regard to the public interest which is to be served by the issuance of additional leases, the Committee understands that the Department of the Interior plans to issue such leases only for those lands which would allow the underlying oil shale resource to be recovered in the future. The Committee intends that the requirement that the public interest be served by such additional leases shall be applied in order to prevent economic losses to the Federal government by reason of the utilization of valuable oil shale lands as dump sites for oil shale waste. The Committee assumes that such economic losses would occur where lands containing surface-minable oil shale deposits were used as dump sites.

Leases pursuant to section 21(d) are authorized for such periods of time as the Secretary determines to be necessary to achieve the purposes for which they are issued. In the event the duration of the lease period is such that it constitutes essentially a permanent use, the Committee recommends that the Secretary consider a sale (reserving the mineral estate to the United States), pursuant to section 203 of the Federal Lands Policy and Management Act.

The lessee of such additional lands authorized by section 21(d) shall pay an annual rental which shall reflect the fair market value for the use of the lands covered by the lease and such payment shall be subject to adjustment so that it continues to reflect fair market value.

The Committee expects that the Secretary shall, prior to the issuance of additional leases authorized by section 21(d), review alternative oil shale waste disposal methods and locations, and reasonable options for the siting of other facilities. The Committee expects that the land use planning process established by section 202 of the Federal Lands Policy and Management Act of 1976 will be followed, and that actions, if any, required by section 102(2)(C) of the National Environmental Policy Act of 1969 will be taken before any additional lease is issued.

Legislative History

H.R. 7941 was introduced by Messrs. Udall, Santini, Marriott, Cheney, McKay, and Kogovsek. The Subcommittee on Mines and Mining of the Committee on Interior and Insular Affairs of the House of Representatives held a hearing on July 31, 1980, and on August 28, 1980, the Committee on Interior and Insular Affairs ordered H.R. 7941 reported by voice vote and recommended that the legislation be enacted by the House of Representatives. It passed the House on September 15, 1980. On September 17, 1980, H.R. 7941 was referred to the Committee on Energy and Natural Resources.

On September 9, 1980, the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Re-

sources held a hearing on S. 2858, a bill introduced by Senator Hart on June 20, 1980. S. 2858 also addressed the question of amending Section 21 of the Mineral Leasing Act. The Subcommittee did not hold hearings on H.R. 7941. On November 19, 1980, the Committee on Energy and Natural Resources considered H.R. 7941 and ordered it reported.

Committee Recommendation and Tabulation of Votes

The Committee on Energy and Natural Resources, in an open business session on November 19, 1980, by unanimous vote of a quorum present, recommended that the Senate pass H.R. 7941 without amendment.

Cost and Budgetary Consideration

Enactment of H.R. 7941, in the opinion of the Committee on Energy and Natural Resources, would have no Federal budget impact nor require significant Federal expenditure.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 7941.

The bill is not a regulatory measure in the sense of imposing Government standards or significant economic responsibilities on private individuals or business. No personal information will be collected in administering the program. Therefore, it would not impact on personal privacy. Little, if any, additional paperwork would result from the enactment of H.R. 7941.

Executive Communications

By letter dated July 29, 1980, the Department of the Interior submitted its comments and draft legislation to the Speaker of the House of Representatives. In an additional letter dated August 20, 1980, to Morris K. Udall, the Department commented on action taken by the Subcommittee on Mines and Mining. Both letters in their entirety follow:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., July 29, 1980.

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Enclosed is a proposal to amend section 21 of the Act of February 25, 1920, commonly known as the Mineral Leasing Act.

We recommend that the bill be referred to the appropriate committee for consideration, and that it be enacted.

This proposal would remove three constraints currently inhibiting this Department's efforts under the Prototype Oil Shale Leasing Program to gain the technical and environmental information needed

to develop a permanent oil shale leasing program. In addition, this proposal would confirm this Department's authority to lease oil shale lands for multimineral development.

First, although this bill would retain the 5,120 acre limitation on lease oil shale tracts, it would add language allowing an increased lease tract size when the Secretary determines that a larger area is necessary to permit long-term commercial operations. This new provision would assure the issuance of lease tracts of sufficient size to enable economic development of oil shale resources.

Second, this bill would remove the current limitation of one oil shale lease per person, association, or corporation. We believe that the one lease limitation inhibits technological development, in that it promotes the use of conservative methods known to be profitable rather than experimental methods which should be encouraged by the prototype program. It also presents a serious disincentive to developers in that it prevents them from further benefiting from the experience and technology they have developed. In place of this one lease limitation, this bill would permit any lessee to hold two leases in any state and up to four leases nation-wide. It further provides that one additional lease may be held in any state where the lessee has achieved commercial production on both leases within that state and where the resources on one of the existing leases in that State will be depleted within ten years. Also, any leases issued in order to avoid bypassing small acreages of Federal oil shale resources which could not otherwise be mined economically would not be included in the limitations on oil shale lease ownership. We believe that these provisions allowing lessees to hold more than the one lease currently allowed will result in the generation of more of the technical and environmental information needed to develop a permanent oil shale leasing program.

Third, this bill would authorize the Secretary to issue, to any person, association, or corporation holding an oil shale lease issued prior to 1985 (and thus issue within the Prototype Oil Shale Leasing Program), an additional lease or leases for the use of other public lands for any use other than the removal of any mineral deposits contained therein, connected with the development of oil shale operations on leased lands. The oil shale lessee would have to demonstrate that the lease is necessary and appropriate for its operations. Uses could include, among other things, disposal of oil shale waste and other materials removed from lands covered by an oil shale lease, and the building of plants, reduction works, or other facilities needed for the operations under an oil shale lease. Allowing such additional leases for the holders of prototype oil shale leases would permit the most efficient mining of oil shale resources, especially in the richest areas, since mining tracts would no longer have to accommodate the processing facilities and spent shale as well as the development operation itself.

Such an additional lease or leases could be issued after the Secretary has considered the environmental and other resource values, and other possible uses of the lands, and has made a determination that the public interest would be served by issuing that lease or leases. A lease issued under this new authority would be issued for such a period of time as the Secretary determines is necessary for the pur-

poses of the lease, would contain such provisions as are needed for proper protection of environmental and other resource values, and would require the lessee to pay the fair market value for the lease.

Lands covered in such an additional lease or leases would remain subject to leasing under other provisions of the Act unless that leasing would not be compatible with the oil shale purposes for which the additional lease or leases are issued. The additional lease or leases would not be transferable except in conjunction with the transfer of the associated oil shale lease issued pursuant to subsection (a) of section 21 of the Act. Lands considered as additional leases which are under the jurisdiction of a Federal agency other than this Department could be leased only with the consent of that agency and subject to any terms and conditions that agency might prescribe. Prior to decisions on the issuance of these leases, we will consult with appropriate Federal departments and agency that have jurisdiction or special expertise on issues associated with oil shale development and production, and with appropriate State and local officials, just as we have done in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) during our past prototype leasing activities.

Since a new offsite leasing authority is provided, the existing limited grant of authority to lease adjacent lands necessary for the reduction of the mineral is deleted.

Fourth, this bill would confirm the authority of the Secretary to issue leases allowing the mining, extracting, and disposing of all mineral deposits contained in lands covered by an oil shale lease. These multimineral leases would be subject to such terms, conditions, and restrictions as the Secretary may impose consistent with subsection (a). This confirmation of existing authority would facilitate multimineral development of resources on leased lands.

Fifth, this bill would amend section 27(e) of the Act to address fractional or indirect interests in oil shale leases in light of the new ceiling on lease holdings mentioned above. Currently, section 27(e) provides that no person, association, or corporation may hold any interest in an association or corporation holding an oil shale lease, if that interest, taken together with other direct or indirect holdings greater than 10 percent, would exceed in the aggregate the maximum number of acres of the mineral in question allowed to any one lessee. Since the absolute limitation on the number of acres that can be held by a particular lessee has been changed to a restriction expressed in terms of numbers of leases, the provision charging shareholders with a pro rata share of a leased interest needs to be amended to reflect that change. Thus, this bill amends section 27(e) to provide that any fractional or indirect interest in an oil shale lease will be counted against the leasehold ceiling (rather than a lease acreage ceiling) so that the sum of the fractional holdings of one person, association, or corporation does not exceed the new leasehold ceilings.

We believe that enactment of these amendments to the Mineral Leasing Act will better enable this Department to gain the technical and environmental information needed to develop the permanent oil shale leasing program. This proposal would not only strengthen the

Prototype Oil Shale Leasing Program, but would also advance the efficient development of oil shale resources, and would facilitate the full utilization of the mineral resources of Federal lands through confirmation of this Department's authority to issue multimineral leases. We therefore strongly recommend the enactment of this proposal.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal from the standpoint of the Administration's program.

Sincerely,

JAMES A. JOSEPH,
Under Secretary.

Enclosure.

A BILL To amend section 21 of the Act of February 25, 1920, commonly known as the Mineral Leasing Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 21 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on the public domain," approved February 25, 1920 (41 Stat. 437; 30 U.S.C. § 241) (hereinafter referred to in this Act as the Mineral Leasing Act of 1920) is amended as follows:

(1) In subsection (a)—

(A) delete "section" wherever it appears and substitute there for "subsection"; and

(B) delete from the first sentence "so much of" and "or land adjacent thereto, as may be required for the extraction and reduction of the leased minerals,"; and

(C) delete from the second sentence "to" the first place it appears and substitute therefor "except when the Secretary determines that a larger area is required to permit long-term commercial operations. Such lands shall", and delete "to" the second place it appears and substitute therefor "such lands shall"; and

(D) delete from the eighth sentence "one lease" and substitute therefor "two oil shale leases in any one state and more than four oil shale leases nationwide", and delete from the eighth sentence "corporation except that with" and substitute therefor, "corporation: *Provided*, That the holder of two oil shale leases in a state may acquire one additional oil shale lease in that state where it has achieved production in commercial quantities from both existing leases in that state and it is within ten years of exhausting the commercially recoverable reserves on one of the existing leases: *Provided further*, That the limitation on ownership of oil shale leases shall not apply with respect to leases issued to avoid bypass of small acreages of Federal oil shale resources which could not otherwise be mined economically. With".

(2) In subsection (c)—

(A) redesignate the existing subsection (c) as paragraph (c)(1); and

(B) add thereafter the following new paragraph: "(2) The Secretary is authorized to issue leases for oil shale pursuant to

subsection (a) allowing the mining, extraction and disposal of other mineral deposits, in addition to oil shale deposits, that are contained in the lands covered by the lease, subject to such terms, conditions, and restrictions as may be imposed by the Secretary consistent with subsection (a), notwithstanding other provisions of this Act with respect to the leasing of such mineral deposits. No oil shale lease which also allows the mining, extraction and disposal of coal may be issued pursuant to this paragraph unless there has been consultation with the Attorney General of the United States as required by section 184(1) of this Act.".

(3) At the end thereof add the following new subsection:

"(d) The Secretary is authorized to issue, to the holder of any oil shale lease issued under subsection (a) of this section prior to 1985, an additional lease or leases for the use of other Federal lands for purposes, other than the removal of any mineral deposits contained therein, connected with the development of an oil shale operation under an oil shale lease, that the oil shale lessee demonstrates are necessary and appropriate for such operations. These uses may include, among other things, the disposal of oil shale waste and other materials removed from the lands covered by an oil shale lease and the building of plants, reduction works, and other facilities needed for operations under an oil shale lease. The Secretary may issue such additional leases after consideration of the environmental and other resource values and other possible uses of the lands to be covered by the leases and upon a determination that the public interest would be served thereby. Any lands under the jurisdiction of a Federal agency other than the Department of the Interior shall be included in such a lease only with the consent of that agency and shall be subject to such terms and conditions it may prescribe.

"A lease issued under this subsection shall be for such periods of time and shall include such lands as the Secretary determines to be necessary to achieve the purposes for which the lease is issued, and shall contain such provisions as he determines are needed for proper protection of environmental and other resource values. The lessee shall pay the fair market value for the use of the lands covered by the lease. Such payment shall be subject to adjustment so that it continues to reflect fair market value. Lands subject to a lease under this subsection shall remain subject to leasing under the other provisions of this Act where such leasing would not be incompatible with the purposes for which a lease is issued under this subsection. A lease issued under this subsection shall not be transferable except in conjunction with the transfer of the associated oil shale leases issued pursuant to subsection (a) of this section.".

SEC. 2. Section 27(e) of the Mineral Leasing Act of 1920 (41 Stat. 448, 30 U.S.C. § 184(e)) is amended as follows:

(1) In paragraph (1) insert after the words "under this Act" the words "or, with respect to oil shale, exceeds in the aggregate the maximum number of leases allowed to any one person, association, or corporation under this Act,".

(2) In paragraph (2)—

(A) insert after the words "against the total acreage" in the first sentence the words "or the total number of oil shale leases"; and

(B) insert after the words "total acreage" in the second sentence the words "or number of oil shale leases"; and

(C) insert after the words "under this Act" in the second sentence the words "or, in the case of oil shale, the maximum number of leases allowed to any one person, association, or corporation under this Act.".

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 20, 1980.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: On July 31, 1980, the Subcommittee on Mines and Mining held hearings on three bills, H.R. 7405, H.R. 7617, and H.R. 7857, that would amend the current authority of the Secretary of the Interior to allow development of oil shale on public lands. All three bills would authorize off-site leasing, that is, the leasing of lands in addition to those covered by a lease for an oil shale deposit to allow the disposal of spent shale and the construction and operation of oil shale processing facilities. H.R. 7857, which was proposed by the Administration, also contains three other provisions that we believe are necessary, indeed critically needed, to facilitate the development of oil shale resources on public lands.

The Subcommittee has reported a bill that is limited in scope to authorizing off-site leasing. While we enthusiastically support that amendment to our existing authority, we are seriously concerned that a failure to pass the other provisions of H.R. 7857 will frustrate this Department's ability to successfully complete its prototype oil shale leasing program.

The Department of the Interior initiated the prototype oil shale leasing program in 1973. The goals of the program are to provide a new energy source by stimulating development of commercial oil shale technology, to develop a full range of environmental safeguards and reclamation techniques for incorporation into the planning of a mature oil shale industry, and to develop management expertise in the leasing and supervision of oil shale development. To date, the prototype program has been only a qualified success. The Department has leased only four oil shale tracts, and it currently appears that only two of those tracts will be developed in the near future, both employing the same basic technology. In short, we have not yet been able to fully accomplish the goals of the prototype program.

On May 27 of this year, Under Secretary James made several decisions concerning the future management of oil shale resources on public lands. The basic thrust of those decisions was that the prototype oil shale leasing program is important and should be completed while work begins to develop a permanent oil shale leasing program. We may lease up to four additional oil shale tracts under the prototype program to test a wider array of oil shale development technologies and to provide additional information on the environmental and other impacts of oil shale development. To initiate the process for additional leasing, a

call for expressions of industry interest in areas and technologies was published in the Federal Register August 18. After receiving expressions of industry interest, and developing tract delineation and selection criteria, formal nominations of specific tracts will be requested on or around January 15, 1981.

To accomplish the objectives of the prototype program, it was determined that a number of changes in our current oil shale leasing authority would be necessary. For this reason the Department proposed several amendments to Section 21 of the Mineral Leasing Act of 1920. The Administration submitted these amendments, which were introduced by Congressmen McKay and Marriott as H.R. 7857. In addition to the off-site leasing provision as reported by the Mines and Mining Subcommittee, which is of immediate concern to only one prototype lessee, the Administration's oil shale proposal contains three major provisions that we believe are necessary this Congress to ensure the success of the call for nominations of additional leases which is to be initiated in January.

First, the Administration recommends that flexibility be given to the Secretary of the Interior to issue leases larger than 5,120 acres when it is determined that a larger area is necessary to permit long-term commercial operations. Although included in the decision to issue a limited number of additional prototype leases was a policy to disperse them as widely as possible, in the absence of authority to issues leases larger than 5,120 acres it is highly probable that none of these additional leases would be issued in Wyoming or Utah. While both States contain substantial oil shale resources, the thickness of the resource zone and the quality of these resources would not generally provide sufficient recoverable oil shale to make development of a lease tract of 5,120 acres economically feasible. For this reason, the Department has already unitized the two existing oil shale leases in Utah. This provision would not at first appear to have much impact on oil shale leasing in Colorado as it appears that over 90 percent of the recoverable resource on Federal lands in Colorado is of sufficient thickness and quality to provide economic units in acreages of 5,120 acres and less. However, without this provision, any additional prototype leasing would be concentrated in Colorado which in turn will unnecessarily concentrate environmental and socioeconomic impacts.

Second, the Administration believes that an amendment clarifying our authority to issue multimineral leases is critical to the prototype leasing program. Substantial quantities of saline minerals (dawsonite, nahcolite and halite) are associated with Piceance Creek Basin oil shale resources. Nahcolite can be used in pollution control equipment and dawsonite is a possible source of aluminum. While some of these saline minerals are bedded and could be avoided in the extraction of the shale, many others occur in small pockets or are finely disseminated in the shale and will be removed with any development of the shale. Although nahcolite and halite can be separated before retorting, dawsonite can only be separated during retorting and only with certain retorting technologies. Thus, any decisions to recover dawsonite from shale must be made at the same time as decisions are made on the choice of shale retorting technologies.

Although the Department believes it has the authority to lease the saline minerals along with the oil shale, the General Accounting Office has questioned this authority. In order to test multimineral tech-

nology and its environmental acceptability, and to conserve these mineral resources, the Department plans to issue at least one prototype lease that provides for multimineral development. If our authority to issue leases for multimineral development remains in question, any lease offering may be ignored and, if not, the winning bidder and the Department may be subject to extensive litigation. H.R. 7857 contains a provision which restates our multimineral leasing authority and removes the litigation threat.

Third, the Administration also believes that the current limitation of just one Federal oil shale lease per person, association or corporation should be modified if the additional prototype lease offerings and the January call for nominations are to be successful. Approximately 80 percent of the oil shale resource in the Green River formation is contained in Federal lands. Development of oil shale technology is very expensive and carries a high degree of risk. With the current limitation of just one lease per company, it is unlikely that a company which receives a prototype lease will be able to apply the benefits of its research and development efforts to additional Federal oil shale resources until its initial lease expires. While Section 27 of the Mineral Leasing Act of 1920 provides for the holding of fractional interests and permits some of the existing lessees to form new associations and hold fractional interests in other leases, such reorganization imposes additional burdens on development companies and has no corresponding benefits for the government. Interest in prototype lease offerings will be dampened considerably, if not lost entirely, if any company which would invest in pioneering oil shale technology cannot later reap the commercial benefits of its work through acquisition of another lease in the same area. The Administration believes that the one lease per person limitation will have this undesirable effect. However, to prevent anticompetitive and monopolistic practices and to encourage broad participation in oil shale development, we also believe that the total number of leases held by any single company in a state and nationwide should continue to be limited. For these reasons we recommend in H.R. 7857 that the current limitation of one Federal lease be modified to provide for up to two leases in any one State and up to four leases nationwide. We are also recommending that some flexibility be built into this limitation so that when the resource of any lease is within ten years of being depleted, the lessee may qualify for an additional lease.

While we are pleased that the Mines and Mining Subcommittee reported the offsite leasing provision, we believe the failure to enact these other provisions this year could seriously impair our ability to successfully complete the prototype oil shale leasing program. While the provision included in the Subcommittee bill is immediately helpful from the standpoint of one lessee, the three other provisions are very important to the Administration and to the numerous companies that we believe will be interested in nominating new prototype lease tracts in January. We therefore urge your committee to favorably consider these provisions so that the Congress can enact them this year.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CECIL D. ANDRUS, *Secretary.*

Cost and Budgetary Considerations

Enactment of H.R. 7941 will not involve any costs or additional budgetary requirements. An increase in revenues may result from rental payments under the legislation. No adverse impact on inflation should result. The analysis of the Congressional Budget Office follows:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., September 4, 1980.

Hon. Morris K. Udall,
Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives,
Longworth House Office Building,
Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 7941, a bill to amend section 21 of the Act of February 25, 1920, commonly known as the Mineral Leasing Act, as ordered reported by the House Committee on Interior and Insular Affairs, August 27, 1980.

This bill would authorize the Secretary of the Interior to issue an off-site lease to any holder of an oil shale lease issued prior to 1985. The off-site lease will make land available for any necessary use (other than mining) associated with the development of oil shale. Under the Department of the Interior's Prototype Oil Shale Leasing Program, there are four oil shale leases currently in effect and four more are planned to be let prior to fiscal year 1985. The Secretary of the Interior does not currently have the authority to lease lands adjacent to mining sites for oil shale processing. Thus, little information is available concerning the location, need, size, and value of the potential leases. As a result, a number of assumptions were made in estimating the cost of enactment of this legislation, based on information obtained from the Bureau of Land Management. It was assumed that only two of the potentially eight oil shale leases issued prior to 1985 would require off-site lands. It was also assumed that enactment of this legislation will occur early in fiscal year 1981 and that the two off-site leases would be identified soon thereafter. Necessary environmental analysis and lease negotiations were assumed to be completed within two years following the site identification. The total costs incurred over this period by the Federal Government for the necessary environmental analyses would be approximately $200,000. Finally, the assumption was made that the average rental would be $30 per acre per year and the average size of a lease would be 5,000 acres. In this case, receipts to the Federal Government as a result of enactment of this legislation would be approximately $300,000 a year beginning in fiscal year 1983.

Sincerely,

James Blum
(For Alice M. Rivlin, Director).

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as re-

ported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF FEBRUARY 25, 1920

(41 Stat. 437, as amended, 30 U.S.C. 241)

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SEC. 21. (a) That the Secretary of the Interior is hereby authorized to lease to any person or corporation qualified under this Act any deposits of oil shale, native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried) belonging to the United States and the surface of so much of the public lands containing such deposits, or land adjacent thereto, as may be required for the extraction and reduction of the leased minerals, under such rules and regulations, not inconsistent with this Act, as he may prescribe; [that] no lease hereunder shall exceed five thousand one hundred and twenty acres of land, to be described by the legal subdivisions of the public-land surveys, or if unsurveyed, to be surveyed by the United States, at the expense of the applicant, in accordance with regulations to be prescribed by the Secretary of the Interior. Leases may be for indeterminate periods, upon such conditions as may be imposed by the Secretary of the Interior, including covenants relative to methods of mining, prevention of waste, and productive development. For the privilege of mining, extracting, and disposing of the oil or other minerals covered by a lease under this section the lessee shall pay to the United States such royalties as shall be specified in the lease and an annual rental, payable at the beginning of each year, at the rate of 50 cents per acre per annum, for the lands included in the lease, the rental paid for any one year to be credited against the royalties accruing for that year; such royalties to be subject to readjustment at the end of each twenty-year period by the Secretary of the Interior: *Provided*, That for the purpose of encouraging the production of petroleum products from shales the Secretary may, in his discretion, waive the payment of any royalty and rental during the first five years of any lease: *Provided*, That any person having a valid claim to such minerals under existing laws on January 1, 1919, shall, upon the relinquishment of such claims, be entitled to a lease under the provisions of this section for such area of the land relinquished as shall not exceed the maximum area authorized by this section to be leased to an individual or corporation: *Provided, however*, That no claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section: *Provided further*, That not more than one lease shall be granted under this section to any one person, association, or corporation except that with respect to leases for native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried) no person, association, or cor-

poration shall acquire or hold more than seven thousand six hundred eighty acres in any one State without respect to the number of leases.

(b) If an oil lease under the provisions of this section for deposits other than oil shale is based upon a mineral location, the validity of which might be questioned because the claim was based on a placer location rather than on a lode location, or vice versa, the offeror shall have a preference right to a lease if the offer is filed not more than one year after the enactment of the Mineral Leasing Act Revision of 1960.

(c) With respect to native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried) a lease under the multiple use principle may issue notwithstanding the existence of an outstanding lease issued under any other provision of this Act.

(d) The Secretary is authorized to issue, to the holder of any oil shale lease issued under subsection (a) of this section prior to 1985 an additional lease or leases for the use of other Federal lands for purposes, other than the removal of any mineral deposits contained therein, connected with the development of an oil shale operation under an oil shale lease, that the oil shale lessee demonstrates are necessary and appropriate for such operations. These uses may include, among other things, the disposal of oil shale waste and other materials removed from the lands covered by an oil shale lease and the building of plants, reduction works, and other facilities needed for operations under an oil shale lease. The Secretary may issue such additional leases after consideration of the environmental and other resource values and other possible uses of the lands to be covered by the leases and upon a determination that the public interest would be served thereby. Any lands under the jurisdiction of a Federal agency other than the Department of the Interior shall be included in such a lease only with the consent of that agency and shall be subject to such terms and conditions it may prescribe.

A lease issued under this subsection shall be for such periods of time and shall include such lands as the Secretary determines to be necessary to achieve the purposes for which the lease is issued, and shall contain such provisions as he determines are needed for proper protection of environmental and other resource values. The lessee shall pay an annual rental which shall reflect the fair market value for the use of the lands covered by the lease. Such payment shall be subject to adjustment so that it continues to reflect fair market value. Lands subject to a lease under this subsection shall remain subject to leasing under the other provisions of this Act where such leasing would not be incompatible with the purposes for which a lease is issued under this subsection. A lease issued under this subsection shall not be transferable except in conjunction with the transfer of the associated oil shale leases issued pursuant to subsection (a) of this section.

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